case from the earlier California decisions, and that is the fact that ostensibly the loan was made not by the owner, the Union Oil Company, but by a distinct and separate corporation, known as the Transportation Company. But it is apparent that the loan by that company was a mere evasion, induced no doubt by the desire to help the contractor and thus insure the completion of the work, without risking a possible release of the sureties. The majority of the stock of the transportation company was owned by the oil company; the most important official of both companies, the general manager, was the same person, and the money was advanced by the oil company to the transportation company, which then loaned it to the contractor. If the contractor had sued the oil company, would not the latter have pleaded payment? Would it not have urged that the transportation company was the mere agent of the oil company, delegated to pay the contractor? The answer seems obvious.

If the Calvert rule is the law in this state, as the earlier cases, which have never been overruled, seem to say, it should be confined to facts identical with those of that case. Probably that is what the court in the principal case meant to do. If so, why not say so? *H. S. J.*

Book Reviews

CASES ON THE LAW OF EVIDENCE. By Edward W. Hinton, Professor of Law in the University of Chicago. American Casebook Series. West Publishing Company, St. Paul, 1919. pp. xxiii, 1098.

The publishers of the American Casebook Series are to be congratulated on having added to their list a first-class casebook on evidence. It is probable that no two teachers of the law of evidence would agree on the proper analysis, method and order of presentation of the topics, but there is excellent material here that anyone teaching evidence by the casebook method should be able to use with advantage. The cases are well selected, both ancient and modern. It is by no means easy from the enormous mass of material to select striking cases that bring out clearly fundamental principles. The author has done his work well and the cases are right up to date. For example, there is included Rosen v. United States (1918) 245 U. S. 467, 62 L. Ed. 406, 38 Sup. Ct. Rep. 148, where the Supreme Court declared itself no longer bound by the ancient rules of evidence and permitted the testimony of a witness convicted of perjury. The case shows a marked tendency in the courts to resume their former control of rules of procedure and evidence and to refuse to be confined in straight-jackets of their own making.

The casebook is scholarly, drawing upon the investigations of

the best modern scholars and presenting enough of the old law to show the rules of evidence in their historical perspective as the product of the jury system. The purpose of a course in evidence is to teach the rules of presenting matters of fact before a court or jury. It is an admirable feature of this book that the practical forensic character is the essential feature of each topic. History, substantive law, and juristic analysis are subordinated to the main purpose and not allowed to become ends in themselves.

A. M. Kidd.

CLARK ON INTERSTATE COMMERCE. John Byrne & Co., Washington, D. C., 1919. pp. lxxix, 262.

The title hardly indicates the character of this work. It is a transcript of the testimony of Mr. Edgar E. Clark, a member of the Interstate Commerce Commission, before the Senate Committee on Interstate Commerce, sitting on the question of the extension of time for relinquishment by the government of control of the railroads. There is an introduction in some eighty pages by Mr. Francis B. James, chairman of the Committee on Commerce, etc., of the American Bar Association, which is a running commentary upon Mr. Clark's statements.

Representing the Commerce Commission (with the exception of one member who desired to continue government ownership) Mr. Clark filed with the committee a memorandum which undertook to state concisely the Commission's view as to purposes to be aimed at and things to be accomplished. In brief, they were: the consolidation in railroad operation; a direction and oversight of new railway construction fitting it to public needs; development and encouragement of water transportation. The memorandum presented the propositions that competition has been wasteful and costly, that railway operation needed emancipation from financial dictation, and that railroad security issues called for public regulation. The general consolidation idea meant, the Commission thought, at least the pooling of equipment and the more liberal use of terminal facilities. A running exposition of these ideas by Mr. Clark, with questions and discussion on the part of various Senators, including Messrs. Cummins, Pomerene, Underwood, Kellogg, Gore, Poindexter, Watson and others, makes up the work. It is a valuable background, in part at least, of the motives lying back of the Esch-Pomerene bill, printed at the close. A number of the ideas brought forth are embodied in the Transportation Act of March 1, 1920, such as the pooling arrangements (§ 180), the security issue provisions (§ 268), the development of water traffic (§§ 203, 209), and in that connection the power of the Commission to prescribe minimum rates as well as maximum.

The outstanding impression upon the reader's mind is the Commission's sense of the essential oneness of the transportation problem as a national rather than a state or regional issue, and its feeling that the country would be better served by consolidation, rather than by free competition. Competition of service and